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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,351	02/22/2002	Larry B. Brandenburger	287.0002 0101	9769

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MUETING, RAASCH & GEBHARDT, P.A.  
P.O. BOX 581415  
MINNEAPOLIS, MN 55458

EXAMINER
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NILAND, PATRICK DENNIS

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/081,351

Applicant(s)

BRANDENBURGER ET AL

Examiner

Patrick D. Niland

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

Art Unit: 1714

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-45 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 94/21368 Thetford et al..

Thetford discloses the instantly claimed coating composition containing the instantly claimed coalescent at the abstract; page 7, lines 1-38, particularly 1, 13, 15, and 36; and the examples, of which the disclosed dispersants fall within the scope of the instantly claimed coalescents and will necessarily and inherently give the instantly claimed improved coalescence in the coatings in which they are used.

4. Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/21368 Thetford et al..

Thetford discloses the instantly claimed coating composition containing the instantly claimed coalescent at the abstract; page 7, lines 1-38, particularly 1, 13, 15,

and 36; and the examples, of which the disclosed dispersants fall within the scope of the instantly claimed coalescents and will necessarily and inherently give the instantly claimed improved coalescence in the coatings in which they are used. It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the instantly claimed combination of ingredients because they are encompassed by the reference and would have been expected to give the properties disclosed by Thetford.

5. Claims 1-45 are rejected under 35 U.S.C. 102(a) as being anticipated by US Pat. No. 6197877 Thetford et al..

Thetford discloses the instantly claimed coating composition containing the instantly claimed coalescent at the abstract; column 1, lines 3-45; column 11, lines 57-67; column 12, lines 1-67 particularly 51-67; and the examples, of which the disclosed dispersants fall within the scope of the instantly claimed coalescents and will necessarily and inherently give the instantly claimed improved coalescence in the coatings in which they are used.

6. Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6197877 Thetford et al..

Thetford discloses the instantly claimed coating composition containing the instantly claimed coalescent at the abstract; column 1, lines 3-45; column 11, lines 57-67; column 12, lines 1-67 particularly 51-67; and the examples, of which the disclosed dispersants fall within the scope of the instantly claimed coalescents and will


necessarily and inherently give the instantly claimed improved coalescence in the coatings in which they are used.

It would have been obvious to one of ordinary skill in the art at the time of the instantly claimed invention to use the instantly claimed combination of ingredients because they are encompassed by the reference and would have been expected to give the properties disclosed by Thetford.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Friday from 10am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Patrick D. Niland  
Primary Examiner  
Art Unit 1714